

## **SECTION 15.70: AIDS POLICY**

**Last Updated: 11/03**

### **Introduction**

The topic of AIDS (Acquired Immunodeficiency Syndrome) has received a great deal of public attention and discussion. According to the latest information available from the United States Public Health Service Centers for Disease Control, and the Iowa Department of Public Health, AIDS is not a disease that can be transmitted through casual contact. The kind of nonsexual interpersonal contact that normally occurs among employees, clients, students, inmates, and the general public in the course of providing public services does not pose a risk for the transmission of human immunodeficiency virus, the virus that causes AIDS.

However, in light of the many concerns, questions, and apprehensions of employees and the public regarding AIDS, it is appropriate to communicate to employees the policy of the State of Iowa as an employer regarding the presence of AIDS in the workplace.

### **General Policy Statement**

The State recognizes the employment-related rights and concerns of employees who may have tested HIV positive, have AIDS or an AIDS related condition, as well as the rights of inmates and residents in state facilities, students at state universities, and the public to continue to receive quality services regardless of their health condition. The State further acknowledges its obligation to provide a safe work environment for all employees, clients, and the public.

Therefore, in keeping with the requirements for safe working environments and the safety of the public, it is the policy of the State of Iowa that it will not discriminate against any individual, employee, or client who may have tested HIV positive, have AIDS, or have an AIDS related condition. Persons with AIDS will be treated in accordance with the State of Iowa's legal responsibility to provide equal access to state employment opportunities for persons with physical or mental disabilities. This is consistent with the U.S. Supreme Court's opinion that "to allow an employer to justify discrimination by distinguishing between a disease's contagious effects on others and its physical effects on a patient would be unfair." (School Board of Nassau County, Florida v. Arline, 107 S. Ct. 1123 [1987]).

In accordance with House File 2344, which amends 601A.6(1), 1987 Iowa Code, testing for HIV by employers is prohibited. Applicants and employees will not be required to test for HIV as a basis for pre-employment, to maintain a current job position, or for a change in job classification.

In order to address concerns regarding the transmission of this virus, the State of Iowa hereby adopts the Centers for Disease Control's guidelines for AIDS in the workplace.

### **Employees**

No employee shall be required to submit to any test to determine whether the employee is HIV positive as a requirement to maintain employment with the State of Iowa. The State recognizes that employees who test HIV positive, have AIDS, or an AIDS related condition, may wish to continue working. As long as employees are able to meet acceptable performance and attendance standards, and medical evidence indicates that their condition is not a threat to themselves or others, employees shall not be denied continued employment solely because of their medical condition. If determined necessary, reasonable efforts will be made to modify an employee's duties based on medical recommendations of the employee's or the State's physician. Such determinations shall be made on a case-by-case basis.

The State further recognizes that an employee's health condition is personal and confidential. If an employee is absent from work because of an AIDS related illness, the same confidentiality requirements that apply to any medical condition will be in force. Therefore, reasonable steps will be taken to protect such information from being disclosed inappropriately.

For purposes of all employee benefits including leave, insurance coverage, workers' compensation, and unemployment benefits, AIDS will be treated as any other illness. This is not to be interpreted as a guarantee of full benefit coverage, but does mean that the same standards applied to other illnesses to determine coverage will be equally applied to AIDS illness claims.

Employees who wish to be tested for the AIDS antibody should consult their physician. For those employees covered by the State's Blue Cross and Blue Shield health insurance plan, the cost of AIDS blood tests will not be covered if these tests are done as part of routine health care and there are not significant AIDS symptoms and risk factors evident. If the employee is covered under one of the State's HMO plans, they should discuss coverage of the costs of AIDS tests with their primary care physician. HIV testing will be done free of charge at any of the Department of Public Health's twelve recognized alternate testing sites.

### **Co-workers**

The State acknowledges that co-workers of employees who have AIDS or an AIDS related condition may have concerns for their own health safety. For that reason, managers and supervisors, in consultation with the Department of Public Health, are to pursue all reasonable and appropriate actions which would ensure that an employee's health condition does not present a health safety threat to co-workers or the public. Further, while managers and supervisors should be sensitive to co-workers' concerns, where it has been medically determined that there is no health safety risk, those individuals who feel threatened by a fellow employee's health condition will not be allowed to refuse to perform their normal duties. To alleviate concerns or fears, agencies shall provide employees with informational materials approved by the Iowa Department of Public Health which address these fears or concerns.

### **Employees required to provide services to individuals who may have AIDS**

The State acknowledges that there are certain employees who are required to provide services to individuals who may be HIV positive, have AIDS, or have an AIDS related condition. To ensure that such employees are able to provide those services in a safe and healthful manner, the affected agencies shall develop policies which address this issue and provide appropriate educational programs and materials for these employees and their families. In so doing, agencies are to incorporate both the Centers for Disease Control's Guidelines on AIDS in the Workplace and recommendations of the Iowa Department of Public Health. Appropriate and adequate information and training will provide safeguards to both the employee and the manager should any disputes about work requirements arise. All such AIDS related policies, curriculum, or protocols must be approved before adoption by the Iowa Department of Public Health.

### **Implementation of this Policy**

Implementation of this policy is intended to be consistent with state personnel rules, administrative procedures, and labor agreements. Managers, supervisors, and employees are encouraged to avail themselves of related educational opportunities.

### **Additional Resources**

For assistance or further information in implementing this policy, agencies should contact their Personnel Officer, the Department of Administrative Services – Human Resources Enterprise Employee Assistance Program, or the Department of Public Health's AIDS Coordinator.